

SENTENCING COURTROOM MINUTE SHEETDATE December 9, 2022E.D.O.K. CR. CASE NO. CR-21-00149-JDU.S.A. -v- SHELLEY DUNCANCOMMENCED 10:55 a.m.ENDED 12:00 p.m.TOTAL TIME 1 hr. and 5 mins.JUDGE JODI W. DISHMANDEPUTY NYSSA VASQUEZREPORTER JOANNA SMITH

Plf. Counsel: <u>Caila M. Cleary, AUSA</u>	Dft. Counsel: <u>Rebecca Aitchison, FPD</u>
Probation Officer: <u>Emily Ditmore</u>	Interpreter: <u>N/A</u>

SENTENCING MINUTE: Defendant appears in person with federal public defender. Counsel and Defendant confirm receipt and review of the Final Presentence Report and addendum. Subject to the Court's rulings and findings on the record, the Court adopts and accepts the Final Presentence Report (including the two (2) corrections to the Final PSR regarding the statutory and guideline provision for supervised release) and addendum, as the findings of the Court for sentencing purposes. Government's Motion for Additional One Level Reduction for Acceptance of Responsibility [Doc. No. 67] is GRANTED. The Court hears oral argument as to a sufficient sentence from both sides. Counsel for Defendant next presents oral argument on (i) the Motion to Self-Surrender to BOP [Doc. No. 66], to which the government does not oppose and (ii) raises a partial objection to one of the special conditions recommended by U.S. Probation, to which the government would object. The Court GRANTS Defendant's Motion to Self-Surrender to BOP and OVERRULES/DENIES Defendant's partial objection to the special condition recommended by U.S. Probation. Further, the Court accepts the 11(c)(1)(C) Plea Agreement and imposes the sentence as shown below.

☒ **DEFENDANT IS SENTENCED TO CUSTODY OF BUREAU OF PRISONS FOR A TERM OF 36 MONTHS as to Counts 3 and 4 of the 4-count Indictment filed on 5/12/2021.** This sentence shall run concurrently on the counts and with any sentence that may be re-imposed in the future on this same conduct.

☒ Upon expiration of sentence imposed herein, defendant shall serve a term of supervised release of **3 YEARS as to Counts 3 and 4 of the 4-count Indictment filed on 5/12/2021, all such terms to run concurrently.**

☒ Counts 1 and 2 of the 4-Count Indictment filed on 5/12/2021 are dismissed per order filed.

☒ Defendant must comply with the mandatory, standard, and special conditions of supervision that are set out in the Judgment in a Criminal Case.

☒ The court does not impose community service.

☒ **RESTITUTION IS NOT ORDERED** because the victim has not participated in any phase determining a restitution order.

☒ Fine is hereby waived due to defendant's inability to pay such fine.

☒ Defendant ordered to pay Special Assessment fee of \$100.00 on each of Count(s) Three (3) and Four (4) for a total of \$ 200.00, due immediately.

☒ Defendant advised that pursuant to the plea agreement, she waived the right to appeal or collaterally challenge the sentence imposed by the court, except under limited circumstances. To the extent that a right of appeal survives this waiver, the defendant is advised that the appeal is to the United States Court of Appeals for the Tenth Circuit, and that, if she cannot pay costs of appeal, she may apply for leave to appeal in forma pauperis, that is, without payment of cost, for the transcript of the trial record, and an attorney at government expense. Notice of appeal must be filed with the clerk of this court within 14 calendar days, or the defendant may request the clerk to now spread same of record.

☒ Execution of sentence stayed until 12:00 p.m. CST Tuesday, January 3, 2023, at which time Defendant's court appearance bond will be exonerated. Defendant to remain on present bond and previously imposed conditions until she self-surrenders on 1/3/2023 at noon (central time) for service of sentence at the institution designated by the Bureau of Prisons. Alternatively, should the Defendant not be designated by January 3, 2023 she should self-surrender to the United States Marshals Service for the Eastern District of Oklahoma on January 3, 2023 at noon (central time).

Authority cited during hearing by Court:

Cases:

1. *Hughes v. United States*, 138 S. Ct. 1765 (2018)
2. *United States v. Bear*, 769 F.3d 1221 (10th Cir. 2014)
3. *United States v. Martinez-Torres*, 795 F.3d 1233 (10th Cir. 2015)

Statutes and Rules:

1. 18 U.S.C. §§ 3553, 3663A, 3572, 3583
2. Fed. R. Crim. P. 11 & 32
3. Various U.S.S.G. policy statements and provisions